

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES BELLE, a/k/a BENJAMIN A.  
JOHNSON,

Plaintiff,

v.

RAYMOND BOOKER and J. ATTERBERRY,

Defendants.

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Case Number 07-14801

Honorable David M. Lawson

Magistrate Judge R. Steven Whalen

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Presently before the Court is the report issued on February 19, 2009, by Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. § 636(b) recommending that this Court grant the defendants' motion to dismiss. The plaintiff requested an additional sixty days to file objections to the magistrate judge's report, which the Court granted in an order on March 9, 2009. The Court allowed the plaintiff to file objections on or before May 8, 2009. However, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 32] is **ADOPTED**.

It is further **ORDERED** that the defendants' motion to dismiss [#24] is **GRANTED**.

It is further **ORDERED** that the complaint is **DISMISSED**.

s/David M. Lawson

DAVID M. LAWSON

United States District Judge

Dated: May 11, 2009

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 11, 2009.

s/Susan K. Pinkowski

SUSAN K. PINKOWSKI